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H.699

Introduced by Representatives Sharpe of Bristol, Macaig of Williston,  
McCullough of Williston, Miller of Shaftsbury, Sullivan of  
Burlington, and Till of Jericho

Referred to Committee on

Date:

Subject: Taxation; excise; sugar-sweetened beverages

Statement of purpose of bill as introduced: This bill proposes to impose an  
excise tax on sugar-sweetened beverages.

An act relating to the imposition of an excise tax on sugar-sweetened  
beverages

It is hereby enacted by the General Assembly of the State of Vermont:

Sec. 1. 32 V.S.A. chapter 227 is added to read:

CHAPTER 227. SUGAR-SWEETENED BEVERAGE TAX

§ 9401. DEFINITIONS

As used in this chapter:

(1) “Commissioner” means the Commissioner of Taxes and his or her  
authorized agents and employees.

(2) “Consumer” means a person who purchases or otherwise obtains a  
sugar-sweetened beverage for consumption and not for sale to another.

1           (3) “Department” means the Vermont Department of Taxes.

2           (4) “Distributor” means any person, including a manufacturer and a  
3 wholesale dealer, who receives, stores, manufactures, bottles, or distributes  
4 syrup, powder, or sugar-sweetened beverages for sale to retailers, whether or  
5 not that person also sells such products to consumers. “Distributor” also  
6 means any person importing or causing to be imported syrup, powder, or  
7 sugar-sweetened beverages into the State from outside the State for sale to a  
8 retailer.

9           (5) “Place of business” means any place where syrup, powder, or  
10 sugar-sweetened beverages are manufactured or received for sale in the State.

11           (6) “Powder” means any solid mixture of ingredients used in making,  
12 mixing, or compounding sugar-sweetened beverages by mixing the powder  
13 with any one or more other ingredients, including water, ice, syrup, simple  
14 syrrup, fruits, vegetables, fruit juice, vegetable juice, or carbonation or  
15 other gas.

16           (7) “Retailer” means any person who sells syrup, powder, or  
17 sugar-sweetened beverages to consumers in the State.

18           (8) “Sale” means the transfer of title or possession for valuable  
19 consideration regardless of the manner by which the transfer is completed.

20           (9) “Sugar-sweetened beverage” means any nonalcoholic beverage,  
21 carbonated or noncarbonated, that is intended for human consumption and

1 contains any added sweetener. As used in this subdivision, “nonalcoholic  
2 beverage” means any beverage that contains less than one-half of one percent  
3 alcohol per volume. However, the term “sugar-sweetened beverage” does  
4 not include:

5 (A) a beverage consisting of 100 percent natural fruit or vegetable  
6 juice with no added sweetener. For the purposes of this subdivision (9),  
7 “natural fruit juice” and “natural vegetable juice” mean the original liquid  
8 resulting from the pressing of fruits or vegetables or the liquid resulting from  
9 the dilution of dehydrated natural fruit juice or natural vegetable juice;

10 (B) milk, with or without any added sweetener, which means natural  
11 liquid milk regardless of animal source or butterfat content; natural milk  
12 concentrate, whether or not reconstituted, regardless of animal source or  
13 butterfat content; dehydrated natural milk, whether or not reconstituted and  
14 regardless of animal source or butterfat content; or soy, rice, or similar milk  
15 substitutes; or

16 (C) infant formula.

17 (10) “Sweetener” means any caloric substance suitable for human  
18 consumption that humans perceive as sweet and includes sucrose, fructose,  
19 glucose, other sugars, and fruit juice concentrates but does not include any  
20 substance that adds fewer than five calories per reference amount customarily  
21 consumed or per labeled serving.

1           (11) “Syrup” means a liquid mixture of ingredients used in making,  
2           mixing, or compounding sugar-sweetened beverages using one or more other  
3           ingredients, such as water, ice, powder, simple syrup, fruits, vegetables, fruit  
4           juice, vegetable juice, or carbonation or other gas.

5           § 9402. TAX IMPOSED

6           (a) There is imposed on every distributor an excise tax on every distributor  
7           of \$0.01 per ounce upon sugar-sweetened beverages sold in the State.

8           (b) There is imposed on every distributor an excise tax of \$0.01 per ounce  
9           of syrup or powder sold in the State. For purposes of calculating the tax under  
10           this subsection, the taxable volume of syrup or powder shall be equal to the  
11           largest possible volume of sugar-sweetened beverage resulting from the use of  
12           the syrup or powder according to the manufacturer’s instructions.

13           § 9403. RETURNS AND REMITTANCES

14           (a) Any distributor liable for the tax imposed by this chapter shall, on or  
15           before the 15th day of every month, return to the Commissioner, under oath of  
16           a person with legal authority to bind the distributor, a statement containing its  
17           name and place of business, the quantity sold in the preceding month of syrup,  
18           powder, and sugar-sweetened beverages subject to the excise tax imposed by  
19           this chapter, and any other information required by the Commissioner, along  
20           with the tax due.

1       (b) There is established a special fund pursuant to chapter 7, subchapter 5  
2       of this title comprising one-half of the revenue from the tax imposed by this  
3       chapter together with any additions or interest accruing to the Fund. The Fund  
4       shall be called the Vermont Healthy Weight Initiative Fund. The  
5       Commissioner of Finance and Management may draw warrants for  
6       disbursements from this Fund in anticipation of receipts. The monies in the  
7       Fund shall be available for the General Assembly to appropriate in accordance  
8       with subsection (d) of this section. Any remaining balance at the end of the  
9       fiscal year shall be carried forward in the Fund.

10       (c) One-half of the revenue from the tax imposed by this chapter shall be  
11       deposited in the State Health Care Resources Fund established under 33 V.S.A.  
12       § 1901d.

13       (d) The funds in the Vermont Healthy Weight Initiative Fund may only be  
14       used to:

15               (1) subsidize the purchase of fruits and vegetables by recipients of WIC  
16               or 3SquaresVT;

17               (2) establish a revolving loan fund to facilitate the purchase of  
18               energy-efficient refrigeration equipment for the sale of fruits and vegetables by  
19               small vendors;

1           (3) provide electronic benefits transfer terminals to all Vermont farmers'  
2           markets as well as technical assistance, promotional support, and  
3           reimbursement to farmers' markets for transaction costs;

4           (4) subsidize school meals for Vermonters with low income; and

5           (5) create a permanent and self-sustaining fund to support programs  
6           combating obesity to be administered by a board comprising representatives  
7           from the Agencies of Human Services, of Education, and of Agriculture, Food  
8           and Markets.

9           § 9404. RECORDS

10           Every distributor shall maintain, for not less than three years, accurate  
11           records showing all transactions subject to tax liability under this chapter.

12           Distributors shall identify the amount of tax collected as a separate invoice  
13           entry on sales to retailers. These records are subject to inspection by the  
14           Commissioner at all reasonable times during normal business hours.

15           § 9405. EXEMPTIONS

16           The following shall be exempt from the tax imposed by section 9402 of this  
17           chapter:

18           (1) syrup, powder, or sugar-sweetened beverages sold to the  
19           U.S. government or its subdivisions or sold under any other circumstances in  
20           which the State is without power to impose the tax;

21           (2) syrup, powder, or sugar-sweetened beverages sold by a distributor

1 for resale or consumption outside the State; and

2 (3) syrup, powder, or sugar-sweetened beverages sold by a distributor to  
3 another distributor that does not resell the syrup, powder, or sugar-sweetened  
4 beverages to consumers, if the purchasing distributor holds a license issued  
5 under section 9406 of this chapter and if the sales invoice clearly indicates that  
6 the sale is exempt.

7 § 9406. LICENSE REQUIRED

8 Each distributor shall secure a license from the Commissioner before  
9 engaging in the business of selling sugar-sweetened beverages in the State.

10 § 9407. APPLICATION FOR AND ISSUANCE OF LICENSE

11 (a) A separate application and license is required for each wholesale outlet  
12 when a distributor owns or controls more than one such outlet.

13 (b) Licenses shall be issued by the Commissioner on application, without  
14 charge, on forms prescribed by the Commissioner, stating the name and  
15 address of the applicant, the address of the place of business, the type of  
16 business, and any other information the Commissioner may require for the  
17 proper administration of this chapter.

18 § 9408. TERM OF LICENSES

19 Each license issued under the provisions of this chapter shall be valid as  
20 long as the licensee continues to do business at the place named, unless the  
21 license is revoked or suspended by the Commissioner as provided in section

1 9409 of this chapter. If the business is sold or transferred or if the licensee  
2 ceases to do business at the place named, the license shall immediately be  
3 returned to the Commissioner for cancellation.

4 § 9409. REVOCATION AND SUSPENSION OF LICENSES

5 The Commissioner may revoke or suspend the license of any licensee for  
6 failure to comply with any provision of this chapter or for failure to comply  
7 with the provisions of 11 V.S.A. chapter 15.

8 § 9410. PENALTIES

9 (a) Any person subject to the provisions of this chapter who fails to pay the  
10 tax imposed by this chapter by the date that payment is due or fails to submit a  
11 return as required by this chapter is subject to the provisions of section 3202 of  
12 this title (interest and penalties).

13 (b) Any person subject to the provisions of this chapter who sells or offers  
14 for sale any syrup, powder, or sugar-sweetened beverage in the State without  
15 holding a license as required by this chapter is liable for a penalty of not more  
16 than \$100.00 for each day such sales are made or offered.

17 § 9411. APPEALS

18 Any person aggrieved by an action taken by the Commissioner under this  
19 chapter may appeal in writing to the Commissioner for a review. The  
20 Commissioner shall then grant a hearing under 3 V.S.A. chapter 25 and notify  
21 the aggrieved person in writing of his or her determination. The

1 Commissioner's determination may be appealed within 30 days to the Superior  
2 Court of the county of this State in which the taxpayer resides or has a place of  
3 business or to the Superior Court of Washington County.

4 § 9412. BONDING

5 When the Commissioner, in his or her discretion, considers it necessary to  
6 protect the revenues raised under this chapter, he or she may require any  
7 licensee to file with him or her a bond under the terms of section 3114 of this  
8 title.

9 Sec. 2. MONITORING

10 The Department of Health shall develop criteria and components for and  
11 carry out an independent evaluation to assess the impact that the sugar-  
12 sweetened beverage tax has on consumption of products affected by the  
13 implementation of the tax. Specifically, the evaluation shall seek to determine  
14 the impact of these exclusions on consumer purchasing and health outcomes.

15 The amount of \$100,000.00 is appropriated to the Department of Health for  
16 this purpose.

17 Sec. 3. EFFECTIVE DATE

18 This act shall take effect on July 1, 2018.